



September 11, 2013

Marlene Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

**Re: Request for Waiver to Permit 800 MHz Wideband Operations in Portions of Florida Prior to Completion of 800 MHz Band Reconfiguration in the Entire NPSPAC Region, WT Docket 12-64**

Dear Sir or Madam:

Pursuant to Section 1.925 of the Federal Communications Commission's ("FCC") Rules, Sprint Corporation ("Sprint") hereby files this Request for Waiver in the above-captioned proceeding to accelerate its broadband deployment in Florida while causing no increased risk of interference to 800 MHz incumbents.

Section 90.209(b)(7) of the Commission's Rules permits Enhanced Specialized Mobile Radio ("ESMR") operators, such as Sprint, to deploy wideband operations in the 817-821/862-866 MHz portion of the ESMR spectrum band during 800 MHz band reconfiguration, and in the 821-824/866-869 MHz portion of the ESMR band after 800 MHz band reconfiguration is completed in a National Public Safety Advisory Committee ("NPSPAC") Region.<sup>1</sup> In accordance with this rule, Sprint is deploying a 1.25 MHz wide CDMA channel in the lower portion of the 800 MHz ESMR band (817 - 821/862 - 866 MHz) throughout the country. Sprint is also deploying a 5 x 5 MHz Long-Term Evolution ("LTE") channel in the 800 MHz ESMR band at 819-824/864 - 869 MHz in NPSPAC Regions where 800 MHz band reconfiguration has been completed.

On June 30, 2013 Sprint decommissioned its 2G 800 MHz iDEN® Network and is now integrating the former iDEN 800 MHz spectrum into its 3G/4G Network Vision build out. Adding 800 MHz spectrum to Sprint's 3G/4G network will improve coverage and in-building penetration due to the propagation characteristics of the 800 MHz band providing a more consistent and improved experience for Sprint's customers.

The 800 MHz band reconfiguration effort is complete in the Florida NPSPAC Region in all areas of the state except the Miami-Dade metropolitan area. Sprint respectfully requests this waiver to permit it to use the 866-869 MHz portion of the band outside of the Miami-Dade area in the 56 Florida counties listed in Attachment A in advance of full NPSPAC Florida Region

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<sup>1</sup> See Improving Spectrum Efficiency Through Flexible Channel Spacing and Bandwidth Utilization for Economic Area-based 800 MHz Specialized Mobile Radio Licensees, *Report and Order*, WT Docket 12-64, DA 12-55, 27 FCC Rcd 6489 (2012). ("800 MHz Broadband Order").

completion.<sup>2</sup> This waiver would be necessary only until the remaining two public safety NPSPAC licensees in the Miami – Dade, FL area complete their retunes.<sup>3</sup> Grant of this waiver will accelerate Sprint’s broadband deployment in Florida and make more efficient use of the 800 MHz ESMR spectrum with no increased risk of interference to the two public safety networks that are still reconfiguring their systems in Miami-Dade. Sprint has discussed this waiver request with both 800 MHz incumbents and they have indicated no objection to the Commission providing the relief requested herein.

### **Request for Waiver**

Under Section 1.925(b)(3) of its rules, the Commission may grant a request for waiver if it is shown that: (i) the underlying purpose of the rule would not be served or would be frustrated by its application to the instant case, and that the grant of the requested waiver would be in the public interest; or (ii) in view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome, or contrary to the public interest, or the applicant has no reasonable alternative.<sup>4</sup> In this case, the requested relief is fully warranted under both prongs of the waiver standard.

In the Florida NPSPAC Region, 23 of the 25 public safety licensees required to be retuned from the “old NPSPAC band” at 821-824/866-869 MHz have successfully completed their retunes. The two remaining licensees, Miami-Dade County and the State of Florida, are working very aggressively with their vendors to complete their retunes as soon as practicable.<sup>5</sup> Until these retunes are certified by the licensees as complete, however, Section 90.209(b)(7) of the Commission’s Rules does not permit broadband operations at 821-824/866-869 MHz anywhere in the Florida NPSPAC Region.

As a result, Sprint is currently prevented from deploying broadband LTE in the old NPSPAC band in those areas of Florida which are fully cleared of public safety communications operations, including populous metropolitan areas such as Tampa – St. Petersburg and Orlando, among others. These areas are more than 200 miles distant from the Miami-Dade metropolitan area. As a result, Sprint can integrate the 821-824/866-869 MHz spectrum into its broadband

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<sup>2</sup> See Attachment A which lists the 56 Florida counties for which Sprint requests the instant waiver to deploy wideband operations in advance of 800 MHz band reconfiguration completion in Florida.

<sup>3</sup> Attachment B lists the 11 counties in Florida where Sprint does not seek a waiver and where Sprint would not deploy wideband operations in advance of completing 800 MHz reconfiguration throughout the state.

<sup>4</sup> See 47 C.F.R. §1.925; *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969).

<sup>5</sup> Miami-Dade County’s public safety communications operations are limited to its jurisdiction in that metropolitan area. The State of Florida has completed its retune throughout the rest of the state, but has retained access to the five national mutual aid channels in the 866-869 MHz old NPSPAC band in the Miami-Dade area until Miami-Dade County has completed its retune. Accordingly, the State of Florida has vacated all of its old NPSPAC spectrum in the rest of the state.

network in much of Florida without posing any risk of interference to the remaining unretuned Miami-Dade operations

Accordingly, Sprint requests a waiver of Section 90.209(b)(7) so that it can launch LTE in the 56 Florida counties listed in Attachment A that are no longer impacted by 800 MHz band reconfiguration. **Each county is more than 80 miles away from the closest Miami-Dade County or State of Florida site still operational in the old NPSPAC band, as shown in Attachment C.** This more than 80-mile co-channel separation of Sprint's proposed 821-824/866-869 use goes well beyond the Part 90 co-channel separation requirements in Section 90.621(b) of the Commission's Rules which permits 800 MHz co-channel usage at sites as close as 55 miles depending on the technical parameters of the proposed facilities. Sprint proposes herein, however, at least 80 miles between co-channel operations to provide an additional buffer of protection to the remaining Miami-Dade un-retuned public safety operations.

Sprint has discussed this matter with both Miami-Dade County and the State of Florida and their vendors, has provided each with details of Sprint's proposed deployment and the measures it proposes herein to protect these jurisdictions from any risk of interference. Both indicated they would interpose no objection to a grant of this waiver request, based on the co-channel distance separation Sprint proposes herein. Both jurisdictions have been sent a copy of this request.<sup>6</sup>

For the foregoing reasons, Sprint requests this waiver in order that it can accelerate its broadband deployment to better serve its customers, consistent with the Commission's goals of expanded competitive wireless broadband availability, while fully protecting ongoing public safety operations in the 866-869 MHz portion of the 800 MHz band until they are fully retuned.

Should there be any questions, please contact the undersigned.

Sincerely,

*/s/ James B. Goldstein*

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<sup>6</sup> Pursuant to the FCC's rules, Miami-Dade County and the State of Florida, as well as all other public safety licensees in the state of Florida, in addition to 800 MHz public safety licensees in neighboring NPSPAC Regions will be provided 30 days advance notice of Sprint's deployment and planned initiation date of operations.

Attachment A – List of Florida Counties Sprint Requests Waiver

Sprint Counties Included
In FCC Waiver Request
Alachua
Baker
Bay
Bradford
Brevard
Calhoun
Charlotte
Citrus
Clay
Columbia
DeSoto
Dixie
Duval
Escambia
Flagler
Franklin
Gadsden
Gilchrist
Gulf
Hamilton
Hardee
Hernando
Highlands
Hillsborough
Holmes
Indian River
Jackson
Jefferson

Sprint Counties Included
In FCC Waiver Request
Lafayette
Lake
Leon
Levy
Liberty
Madison
Manatee
Marion
Nassau
Okaloosa
Orange
Osceola
Pasco
Pinellas
Polk
Putnam
Santa Rosa
Sarasota
Seminole
St. Johns
Sumter
Suwannee
Taylor
Union
Volusia
Wakulla
Walton
Washington

Attachment B – List of Florida Counties Excluded from Sprint Waiver

Sprint Counties Excluded
From FCC Waiver Request
Broward
Collier
Glades
Hendry
Lee
Martin
Miami-Dade
Monroe
Okeechobee
Palm Beach
St. Lucie

## Attachment C – Map

